

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Patent Application

Inventors: Steven Phillip Gologorsky et al.
Serial No.: 10/676284
Conf. No.: 7073
Filing Date: 10/1/2003
Art Unit: 4143
Examiner: Kito Robinson
Docket No.: 620-022US
Title: Multi-Variable Computer-Based Auctions

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL-BRIEF REQUEST FOR REVIEW

The applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

Respectfully,
Steven Phillip Gologorsky et al.

By **/Jason Paul DeMont/**
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Dear Sir:

PRE-APPEAL BRIEF REMARKS

Claims 1-20 were presented for examination and were rejected. The applicants respectfully request reconsideration in light of the amendments and the following comments.

35 U.S.C. 103 Rejection of Claims 1-3, 5, 10, and 20

Claims 1-3, 5, 10, and 20 have been rejected under 35 U.S.C. 103(a) as unpatentable over R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou"). The applicants respectfully traverse the rejection.

Claim 1, as amended, recites:

1. A method of conducting an auction in behalf of an auction solicitor, the method comprising:

publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable; and

selecting at the data processing system a winning bid in the auction, wherein the selection of the winning bid is dependent on the first auction variable and independent of the second auction variable;

wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and

wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.

(emphasis supplied)

Nowhere does Nieboer or Abdou teach or suggest, alone or in combination, what claim 1 recites — namely,

- publishing a relationship between a first bid variable and a second nonbid variable, and
- selecting a winning bid that is dependent on the first bid variable but independent of the second nonbid variable, and
- wherein the first auction variable and the second auction variable become contract terms of a contract that result from the auction.

In contrast, Abdou teaches an auction that aggregates orders from a plurality of customers to satisfy an order. There is no “relationship” between a first auction variable and a second auction variable that become contract terms of a contract, as recited in the claim. For this reason, the applicants respectfully submit that the rejection of claim 1 is traversed.

Claim 2, as amended, recites:

2. The method of claim 1 wherein the relationship is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder.

(emphasis supplied)

Nowhere does Abdou teach or suggest, alone or in combination, what claim 2 recites — namely that the relationship between the first auction variable and the second auction variable is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder. For this reason the applicants respectfully submit that the rejection of claim 2 is traversed.

Because claims 3, 5, and 10 depend on claim 1, the applicants respectfully submit that the rejection of them is also traversed.

Claim 20 depends on independent claim 11, and the Office agrees that Abdou does not anticipate claim 11. Therefore, the applicants respectfully submit that the rejection of claim 20 is traversed.

35 U.S.C. 103 Rejection of Claims 4

Claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and M. Alaia et al., U.S. Patent 6,199,050 (hereinafter "Alaia"). The applicants respectfully traverse.

Claim 4 depends on independent claim 1, and Alaia fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 4 is traversed.

35 U.S.C. 103 Rejection of Claim 4

Claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and C.C. Aggarwal, U.S. Patent 6,151,589 (hereinafter "Aggarwal"). The applicants respectfully traverse.

Claim 4 depends on independent claim 1, and Aggarwal fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 4 is traversed.

35 U.S.C. 103 Rejection of Claims 6-8

Claims 6-8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and K. Williams, *"Reviewing and Analyzing Service Contracts,"* (hereinafter "Williams"). the applicants respectfully traverse.

Claims 6-8 depend on independent claim 1, and Williams fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claims 6-8 is traversed.

35 U.S.C. 103 Rejection of Claim 9

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and Business Wire, "Test Drive RFPHere.com Free for Three Months," (hereinafter "Business Wire"). The applicants respectfully traverse.

Claim 9 depends on independent claim 1, and Business Wire fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 9 is traversed.

35 U.S.C. 103 Rejection of Claims 11 and 19-20

Claims 11 and 19-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and M. Alaia et al., U.S. Patent 6,199,050 (hereinafter "Alaia"). The applicants respectfully traverse.

Independent claim 11, as amended, recites:

11. A method of conducting an auction in behalf of an auction solicitor, the method comprising:

publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable, wherein the relationship is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder; and

selecting at the data processing system a winning bid in the auction based on the first auction variable and independent of the second auction variable;

wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and

wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.

(emphasis supplied)

Nowhere do Neibor, Abdou, or Alaia, alone or in combination, teach or suggest what claim 11 recites — namely, the relationship between the first auction variable and the second auction variable is such that a change in the first auction variable in a direction that

is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder.

For these reasons, the applicants respectfully submit that the rejection of claim 11 is traversed.

Because claims 19-20 depend on claim 11, the applicants respectfully submit that the rejection of them is also traversed.

35 U.S.C. 103 Rejection of Claims 15-17

Claims 15-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and M. Alaia et al., U.S. Patent 6,199,050 (hereinafter "Alaia") and K. Williams, "*Reviewing and Analyzing Service Contracts*," (hereinafter "Williams"). the applicants respectfully traverse.

Claims 15-17 depend on independent claim 11, and Williams fails to cure the deficiencies of Nieboer, Abdou, and Kinney with respect to claim 11. Therefore, the applicants respectfully submit that the rejection of claims 15-17 is traversed.

35 U.S.C. 103 Rejection of Claim 18

Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al, U.S. Patent 6,418,419 (hereinafter "Nieboer") in view of H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") and M. Alaia et al., U.S. Patent 6,199,050 (hereinafter "Alaia") and and Business Wire, "*Test Drive RFPHere.com Free for Three Months*," (hereinafter "Business Wire"). The applicants respectfully traverse.

Claim 18 depends on independent claim 11, and Business Wire fails to cure the deficiencies of Nieboer, Abdou, and Kinney with respect to claim 11. Therefore, the applicants respectfully submit that the rejection of claim 18 is traversed.

Request for Reconsideration Pursuant to 37 C.F.R. 1.111

Having responded to each and every ground for objection and rejection in the last Office action, applicants respectfully request reconsideration of the instant application pursuant to 37 CFR 1.111 and request that the Examiner allow all of the pending claims and pass the application to issue.

If there are remaining issues, the applicants respectfully request that Examiner telephone the applicants' attorney so that those issues can be resolved as quickly as possible.

Respectfully,
Steven Phillip Gologorsky et al.

By **/Jason Paul DeMont/**
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